



**GIRISH
KATHPALIA**



Delhi, was recovered. The role ascribed to the accused/applicant is that it is he, who booked the transported opium from Manipur and thereafter, he flew down to Delhi.

3. Learned counsel for accused/applicant contends that he is in jail since 19.06.2023 despite there being no admissible evidence against him. It is contended that the accused/applicant is in jail solely on basis of confessional statement of accused Mohan Lal, recorded in police custody.

4. Learned APP assisted by IO/Inspector Sanjeev Kumar contends that the involvement of the accused/applicant is on the basis of Section 29 of the NDPS Act as a conspirator. As regards the evidence of the alleged conspiracy, the learned APP submits that the evidence is in the form of location of the accused/applicant in Manipur prior to dispatch of the consignment and the telephone calls exchanged between the accused/applicant and co-accused Mohan Lal. No other evidence of the alleged conspiracy has been collected by the IO.

5. So far as the location of the accused/applicant in Manipur prior to the alleged dispatch of the contraband is concerned, the same is deduced by the IO on the basis of mobile phone location of the accused/applicant. Similarly, as regards telephonic connectivity between the accused/applicant and co-accused Mohan Lal, the investigator relies upon mobile phone numbers of both of them.

6. But as regards the mobile phone number ascribed to the



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accused/applicant, learned APP on instructions of the IO fairly submits that the said number, according to CAF (Customer Application Form) belongs to one Haukholen Akipjen. There is no material, *prima facie*, to connect the accused/applicant with the said mobile phone, which was found located in Manipur and which was found in connectivity with mobile phone of the co-accused.

7. Further, it is a matter of common knowledge that the mobile phone tower covers a large area and large number of mobile phones being operated from that area. Furthermore, it is nobody's case that the telephonic calls, even if the same were between the accused/applicant and the co-accused, were intercepted and conversation was recorded. Mere telephonic connectivity, without there being any material as regards what was conversed between two persons cannot be treated as incriminating evidence, unless there is something more, which is not the present case. In any case, as mentioned above, there is no material to establish that the co-accused Mohan Lal was in telephonic connectivity with the accused/applicant, because admittedly the mobile phone ascribed to the accused/applicant is in someone else's name.

8. Considering the above circumstances, I do not find any reason to deprive further liberty to the accused/applicant. Therefore, the bail application is allowed and accused/applicant is directed to be released on bail subject to his furnishing a personal bond in the sum of Rs.10,000/- with one surety in the like amount to the satisfaction of the Trial Court.



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9. A copy of this order be immediately transmitted to the concerned Jail Superintendent for informing the accused/applicant.

10. Of course, nothing observed in this order shall be read to the prejudice of either side at the final stage of the trial.

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(JUDGE)

Digitally signed by GIRISH KATHPALIA
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MARCH 09, 2026

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